

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

NAPOLEON SQUARE APARTMENTS,	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. H-06-3180
	§	
KEVIN JOSEPH,	§	
Defendant and Third-Party	§	
Plaintiff,	§	
	§	
v.	§	
	§	
FEDERAL EMERGENCY	§	
MANAGEMENT ADMINISTRATION,	§	
Third-Party Defendant.	§	

REMAND ORDER

Pending before the Court is Plaintiff Napoleon Square Apartments's ("Napoleon") Emergency Motion to Sever Third-Party Claims and to Remand Plaintiff's Original Suit [Doc. # 8]. The Motion is well founded in part. In an Order dated November 17, 2006, this Court ordered Defendant Kevin Joseph and Third-Party Defendant Federal Emergency Management Administration ("FEMA") to show cause why Napoleon's Motion should not be granted. Joseph has responded by voluntarily dismissing FEMA and concedes that remand is appropriate.

Joseph, however, objects to Napoleon's request that it be awarded costs and attorney's fees incurred by the removal and remand proceedings. Napoleon cites no authority for fee

shifting in the circumstances of this case. Also, Joseph correctly notes that FEMA, not he, removed the matter from state court. It is therefore

ORDERED that Plaintiff's Emergency Motion to Sever Third-Party Claims and to Remand Plaintiff's Original Suit [Doc. # 8] is **GRANTED in part**. It is further

ORDERED that this case is **REMANDED** to the Justice Court of Harris County, Texas, Precinct Five, Position One. It is further

ORDERED that each party shall bear its own costs and attorneys' fees.

SIGNED at Houston, Texas, this 28th day of **November, 2006**.


Nancy F. Atlas
United States District Judge